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8			
9	BEFORE THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
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11		2 2 2 7 5 3	
12	In the Matter of the Accusation Against:	Case No. 2009-253	
13	DENISE ANN VIEIRA GOMES aka DENISE ANN HASSEL	ACCUSATION	
14	aka DENISE ANN STOCKS aka DENISE ANN CHON		
15	P. O. Box 933 Palermo, California 95968		
16	Registered Nurse License No. 365142		
17	Respondent.		
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19		.00. 11	
20	Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:		
21	<u>PARTIES</u>		
22	1. Complainant brings this Accusation solely in her official capacity as the		
23	Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer		
24	Affairs.	an in the interest	
25	2. On or about August 31, 1983, the Board issued Registered Nurse License		
26	Number 365142, to Denise Ann Vieira Gomes, also known as Denise Ann Hassel, also known as		
27	Denise Ann Stocks, also known as Denise Ann Chon ("Respondent"). The license will expire on		
28	December 31, 2010, unless renewed.		

JURISDICTION

- 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811(b), the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

5. Code section 2761(a) states, in pertinent part, that the board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for unprofessional conduct.

REGULATORY PROVISIONS

6. California Code of Regulations, title 16, section 1444(a), states, in pertinent part, that an act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such act shall include but not be limited to assaultive or abusive conduct, including, but not limited to violations listed in Penal Code section 11160(d)¹.

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1. Penal Code section 11160(d)(8) states, in pertinent part, that assaultive or abusive conduct includes battery, in violation of Penal Code section 242. Penal Code section 242 states, in pertinent part, a battery is any willful and unlawful use of force or violation upon the person of another.

COST RECOVERY

7. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FACTUAL BACKGROUND

8. On or about June 20, 2007, a patient was brought into the Oroville Hospital emergency room by the Oroville Police Department for treatment to a cut on his head. The patient was in custody and being monitored by officers. The patient was fully restrained in a WRAP device, unable to move his arms or legs, and wearing a spit mask. Respondent was the charge nurse on duty and examined the patient. While Respondent was trying to treat the patient, the patient was uncooperative, yelling, and throwing his head and body around on the gurney. Respondent then hit the patient on the legs with a closed fist while yelling at the patient.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Patient Abuse)

9. Respondent is subject to discipline for unprofessional conduct under Code section 2761(a), in that on or about June 20, 2007, while working as a registered nurse at Oroville Hospital, located in Oroville, California, Respondent demonstrated assaultive or abusive conduct, as more particularly set forth above in paragraph 8. Pursuant to California Code of Regulations, title 16, section 1444(a), such assaultive or abusive conduct evidences present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, and welfare.

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2	WHEREFORE, Complainant requests that a hearing be held on the matters	
3	herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:	
4	1. Revoking or suspending Registered Nurse License Number 365142, issued	
5	to Denise Ann Vieira Gomes, also known as Denise Ann Hassel, also known as Denise Ann	
6	Stocks, also known as Denise Ann Chon;	
7	2. Ordering Denise Ann Vieira Gomes, also known as Denise Ann Hassel,	
8	also known as Denise Ann Stocks, also known as Denise Ann Chon to pay the Board of	
9	Registered Nursing the reasonable costs of the investigation and enforcement of this case,	
10	pursuant to Code section 125.3; and,	
11	3. Taking such other and further action as deemed necessary and proper.	
12	DATED: 4116109	
13	\mathcal{P} to \mathcal{A}	
14	RUTH ANN TERRY, M.P.H., R.N. Executive Officer	
15	Board of Registered Nursing Department of Consumer Affairs	
16	State of California Complainant	
17	Complanant	
18	SA2008302282	
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